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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,665	05/03/2001	Richard W. Parod	Lindsay 52	7328

7590 06/23/2003

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

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DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/848,665

Applicant(s)

PAROD ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-36 and 38-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendment filed May 6, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 33, 36, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Sesser (4,676,438).

Sesser discloses an irrigation assembly comprising: a main pipeline 14; mobile towers 18; a plurality of drop tube assemblies 22; a plurality of stationary troughs (as shown in the bottom left corner of figure 1). The troughs are positioned at least partially above the surface of the ground (the ground surface traversed by wheels of coupling 20).

### ***Claim Rejections - 35 USC § 103***

4. Claims 34, 35, 38, 39, 40, 41, 43, 44 rejected under 35 U.S.C. 103(a) as being unpatentable over Sesser (4,676,438) in view of Stoddart (632,795).

With respect to claims 34, 35 and 44, Sesser discloses the limitations of the claimed invention with the exception of the trough having a plurality of underground drains and a weir. Stoddart discloses a trough a having a plurality of underground

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drains **b** and a weir (one or both ends of the distributor are closed (lines 19-20). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a trough to the device of Sesser as taught by Stoddart to distribute liquids in fine streams or drops (Stoddart, lines 9-12).

With respect to claims 38, 39, 40, 41 and 43, Sesser in view of Stoddart discloses the limitations of the claimed invention with the exception of the trough being a pipe with a slot located in the top. Stoddart discloses a V-shaped trough having a slot located in the top. Providing a pipe (a circular or rounded shape) instead of a V-shape is a mere change in shape. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a pipe (a pipe shaped trough) in the device of Sesser in view of Stoddart to decrease sharp edges.

### ***Response to Arguments***

5. Applicant's arguments filed May 6, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument Sesser does not show troughs positioned at least partially above the surface of the ground and at least partially within the paths for receiving water from the drop tube assemblies, Sesser discloses the troughs positioned at least partially above the surface of the ground (the ground surface traversed by wheels of coupling 20).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stoddart provides the motivation to combine in lines 9-12:

The object of this invention is to distribute liquids in fine streams or drops, and is especially applicable for delivering liquids onto filter-beds.

In response to applicant's argument that Stoddart is not combinable, Sesser does not preclude using any particular types of trough. Sesser's concerns are directed to the sprinkler and sprinkler heads.

In response to applicant's argument that Stoddart does not disclose a plurality of underground drains, Stoddart discloses, in lines 21-24:

The liquid to be distributed is introduced into the gutter, flows over the margins through the notches, if any, and drops from the pegs into the receiving vessel.

Such operation of the pegs have been considered to meet applicant's limitation of "underground drains."

In response to applicant's argument that the ends of Stoddard does not define a weir mounted within the trough, the ends of Stoddard's trough is within the V-shaped sidewalls.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim  
Examiner  
Art Unit 3752

CK  
June 20, 2003